

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JAMES A. BABCOCK JR.,	)	
	)	
Plaintiff,	)	4:05CV3122
	)	
v.	)	
	)	
MID PLAINS COMMUNITY COLLEGE,	)	MEMORANDUM AND ORDER
and RON AXTELL,	)	
	)	
Defendants.	)	
	)	

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The plaintiff's complaint requested place of trial in Lincoln, Nebraska. The defendants' answer requested place of trial in North Platte, Nebraska. Filing 10. The defendants have submitted evidence and a brief in support of their request for a change of trial location. Filings 11 & 12. The plaintiff has not responded.

The plaintiff's complaint alleges his termination from employment for defendant Mid Plains Community College violated his civil rights and was discriminatory. His complaint alleges he is a resident of North Platte, Nebraska and during the events giving rise to his claim, he was employed by the defendant, Mid Plains, and worked under the supervision of defendant Ron Axtell. Filing 1.

The affidavits of John Patterson, Ron Axtell, and Shaun Pagel (filing 12, attachments 1, 2 & 3), presented as evidence in support of defendants' request to change the trial location, state:

- Defendant Mid Plains and its human resources office is located in North Platte;
- The plaintiff worked for Mid Plains exclusively in North Platte;

- All documentation regarding the plaintiff's employment and his supervision by defendant Axtell is located in North Platte;
- Defendant Ron Axtell resides in North Platte;
- The employee who replaced the plaintiff after he was terminated, Shaun Pagel, lives in North Platte;
- Any current Mid Plains employees with knowledge of plaintiff's allegations, including the Director of Human Resources and the President of Mid Plains (who will be a witness at trial), reside in North Platte or Lincoln County.
- North Platte is 225 miles from Omaha;
- A trial in Lincoln rather than North Platte will cause those who must attend or testify to incur longer absences from their work and home.

Counsel for the plaintiff is from Lincoln, Nebraska; counsel for the defendants is from North Platte, Nebraska.

NECivR 40.1(b)(2) provides that "[t]he judge may resolve conflicting requests [for place of trial] without oral argument" and "shall consider the convenience of the litigants, witnesses, and counsel when deciding the place of trial." The evidence before me establishes that North Platte is a substantially more convenient location for the witnesses and litigants than Lincoln. Only plaintiff's counsel will be inconvenienced by moving the trial location to North Platte. Based on this evidence, I conclude this trial should be held in North Platte, Nebraska

IT THEREFORE HEREBY IS ORDERED: The place of trial for this case is changed to North Platte, Nebraska.

DATED this 29<sup>th</sup> day of July, 2005.

BY THE COURT:

s/ *David L. Piester*

David L. Piester  
United States Magistrate Judge